

Stephen W. Rupp (2824)
Quinn A. Sperry (11771)
McKAY, BURTON & THURMAN
170 South Main Street, Suite 800
Salt Lake City, UT 84101
Tel: (801) 521-4135
Fax: (801) 521-4252
Email: QSperry@mbt-law.com

Attorneys for Stephen W. Rupp, Trustee

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH

In re:

GEOFFREY B. NIELSON, and
DENISE K. NIELSON,

Debtors.

Bankruptcy No. 09-31322 RKM

(Chapter 7)

**TRUSTEE'S MOTION FOR AN ORDER APPROVING THE SALE OF THE
ESTATE'S INTERESTS IN PERSONAL PROPERTY
AND APPROVING THE SALE PROCEDURES**

Stephen W. Rupp, Trustee of the Chapter 7 bankruptcy estate of Geoffrey B. Nielson and Denise K. Nielson, hereby moves the Court for an order approving the sale of the estate's interest in personal property pursuant to the provisions of Section 363 of the Bankruptcy Code and Bankruptcy Rule 6004. In support of this motion the Trustee respectfully represents as follows:

1. Geoffrey B. Nielson and Denise K. Nielson (the "Debtors") initiated this case by filing a voluntary petition for relief under Chapter 7 of the Bankruptcy Code October 14, 2009.
2. Stephen W. Rupp is the duly appointed Trustee of the Debtors' Chapter 7 bankruptcy estate.

3. Among other things, the Debtors' estate owns a 50% interest in Koala-T Investments, LLC ("Koala-T Investments") and a one-tenth undivided interest in a financial account owned by Mutual Friends Investment Club (the "Investment Club").

4. The Debtors have offered to purchase the estate's interest in Koala-T Investments for \$2,336.00 and \$1,892.00 to purchase the estate's interest in the Investment Club, subject to existing liens and interests.

5. By this motion the Trustee seeks authority to sell (1) the estate's interest in Koala-T Investments to the Debtors for \$2,336.00, subject to existing liens, interests, and exemptions and (2) the estate's interest in the Investment Club to the Debtors for \$1,892.00, subject to existing liens, interests, and exemptions. The sale is further subject to the following terms and conditions.

- a. The estate's interests in Koala-T Investments and the Investment Club will be sold as is, with no warranties, expressed or implied.
- b. The sale of the estate's interests in Koala-T Investments and the Investment Club to the Debtors is subject to higher and better offers, by third parties and/or the Debtors, received by the Trustee up to and at the hearing on this motion. The Trustee, using his business judgment, will determine which offer constitutes the highest and best offer for the estate's interests in Koala-T Investments and the Investment Club.
- c. All competing bids for the estate's interest in Koala-T Investments and/or the Investment Club must (i) be made in writing, (ii) identify whether the bid is for the estate's interest in Koala-T Investments or Investment Club, (iii) contain the contact information of each bidder (i.e.: name, phone number, fax number, email address, and/or mailing address), and (iv) must

be accompanied by an earnest money deposit, payable to the Trustee, equal to one-half (½) of the bidder's bid amount.

- d. All bids must be delivered to the Trustee no later than 4:30 p.m. on September 13, 2010 (the "Bid Deadline"), at the following address:

Stephen W. Rupp, Trustee
McKAY, BURTON & THURMAN
170 South Main Street, Suite 800
Salt Lake City, UT 84111

- e. If multiple qualifying bids for estate's interest in Koala-T Investments and/or the Investment Club are received by the Bid Deadline, the Trustee will notify those parties who submitted qualifying bids and the Trustee will conduct an auction among all parties submitting such qualifying, competing bids on September 16, 2010, at 3:00 p.m. at the offices of McKay, Burton & Thurman, counsel for the Trustee, located at 170 South Main Street, Suite 800, Salt Lake City, Utah 84101.
- f. The highest and best bid(s) received by the Trustee, in the Trustee's sole determination, will be presented to the Bankruptcy Court for approval.
- g. The successful bidder(s) will be required to pay the remaining amount of the purchase price to the Trustee in cash or certified funds on or before September 20, 2010.
- h. The Trustee shall hold all earnest money deposits and sale proceeds in trust until the Bankruptcy Court has entered its order on this motion. The Trustee shall return all earnest money deposits to the respective unsuccessful bidders.
- i. If no objection to this motion is timely filed by September 17, 2010, the objection deadline set forth in the notice of hearing applicable to this

motion, the Trustee may file a declaration with the Court setting forth the amount of the highest and best bid(s) received for the estate's interest in Koala-T Investments and/or the Investment Club and the identity of the successful bidder(s), request that the Court enter an order authorizing and approving the sale of the estate's interests in the estate's interest in Koala-T Investments and/or the Investment Club to said bidder(s), and strike the hearing on this motion

- j. The sale is subject to the approval of the United States Bankruptcy Court for the District of Utah and conditioned upon entry of an order authorizing the sale of the estate's interests in Koala-T Investments and the Investment Club upon the terms set forth in this motion.
- k. The sale proceeds will be held by the Trustee and administered pursuant to further order of the Court. No costs or commissions will be paid on the sale.

6. It is the Trustee's business judgment that the proposed sale of the estate's interests in Koala-T Investments and the Investment Club to the Debtors, and/or another third party bidder, will result in a fair distribution to the holders of allowed claims. Based upon the foregoing the Trustee believes that the sale is in the best interests of creditors and the estate.

WHEREFORE the Trustee respectfully requests that the Court enter an order authorizing and approving the sale of the estate's interests in Koala-T Investments and the Investment Club pursuant to the terms and conditions set forth in this motion and for such other and further relief as the Court determines to be appropriate under the circumstances.

DATED this 23rd day of August, 2010.

McKAY, BURTON & THURMAN

By: /s/
Quinn A. Sperry
Attorneys for Stephen W. Rupp, Trustee